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U.S. Serial No.: 09/839,078

Filed : April 20, 2001

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REMARK

Claims 27-46 were rejected in the December 6, 2005 Non-final Office Action. Therefore, claims 27-46 are still pending in this Application. By this Response to Office Action, Applicants respectfully disagree with the Examiner's claim rejections under 35 USC § 103 (a) and respectfully argue that the claims should be placed in condition for allowance.

Claim Rejections - 35 USC § 103(a)

The Examiner rejected claims 27, 30-34, 41 and 44-46 under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,600,336 issued to WALLER, Jr.

Specifically, in reference to claims 27 and 41 the Examiner states, "WALLER,Jr. discloses the use of a flexible flooring (10) including a first top layer (11) consisting of a plurality of strips (12) having a grain extending in a longitudinal direction, and a second bottom layer (15) consisting of a plurality of strips (16); wherein, the second bottom layer (15) consisting of a plurality of strips (16) are closely spaced by a gaps (not labeled), column 3, lines 17-18, such that the strips (16) are not perpendicular to the plurality of strips (12)".

The Applicants respectfully disagree with the Examiner's conclusion that the above reference contains some motivation or teaching with regards to creating flexible flooring. In contrast, WALLER, Jr. describes a wooden mat assembly for supporting heavy equipment and vehicles around oil field drilling sites having a lifting and transporting means. See WALLER, Jr., col. 1, lines 62-65, and col. 4, lines 29-32. The wooden mat is comprised of three layers, and each layer (i.e., top, intermediate and bottom layer) comprises parallel and spaced planks. The arrangement of the wooden planks in each

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layer is intended to form perforations or passages for inserting cable loops through the wooden plank. See WALLER, Jr., Figure 3 and 6. WALLER, Jr. does not teach a flexible flooring that conforms with irregularities in the sub-floor by providing spaced strips of appropriate width in the bottom layer and by varying the width of the gaps between the strips to obtain the desire flexibility.

The Examiner also states even though WALLER, Jr. does not teach the second layer specifically having a grain that is transverse to the grain of the first layer, "it would have been obvious to one having ordinary skill in the art at the time the invention was made that grain of the panel would depend upon how the plank was cut."

However, applicants maintain that arranging the strips on the bottom layer perpendicular or transverse to the strips on the top layer, would render the wooden mat of WALLER, Jr. unsuitable for its intended purpose. The wooden mat as taught by WALLER, Jr. will no longer provide a strong platform for supporting equipment and vehicles in oil field drilling sites if the planks in the bottom layer are arranged transversely to the planks in the top layer.

WALLER, Jr. teaches that the planks on the bottom layer are not perpendicular or transverse to the planks on the top layer. See WALLER, Jr., Figures 1-3 and 10. See also column 5, lines 57-60 (stating that "an upper layer of substantially parallel closely spaced longitudinally extending wooden planks overlaying said intermediate layer in parallel relation to said lower layer...").

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In addition, the strips in all three layers of WALLER, Jr. are provided with gaps to permit the attachment of handling or lifting means to the flooring mat. See WALLER, Jr., col. 3, lines 60-68. If the gaps between the strips are increased to add flexibility to the flooring mat, the mechanical strength of the flooring mat will be weakened, thereby causing the flooring mat to fail under the weight of heavy equipment.

With regards to Applicants' claims 30 and 44, it is irrelevant that the Applicants' have chosen wood as well as bamboo for their flooring system. An invention is often made up of parts of other inventions and must be looked at as a whole.

Examiner states, regarding claims 31-33 and 45-46, "the amount of gap spaced desired 14, the second bottom layer (14) also includes tongues (32) and grooves (formed by gaps G) for attaching adjacent planks (10)." The Examiner further states, "that the size of the gap is suitable for the use intended as an obvious matter of design choice."

Applicants' respectfully disagree with the Examiner because WALLER, Jr. does not teach having gaps only in the second bottom layer of flooring. WALLER, Jr.'s invention though contains gaps in all three of the layers does not mention the gaps specifically, only referring to gaps as spacing with regard to the cable loops. There is no teaching in WALLER, Jr. that would lead to the gaps being used to make or not make a flooring system more or less flexible.

The Examiner in reference to Applicants' claims 36 and 37, states, "although WALLER, Jr. is silent in this regard, wood flooring is old and very well known in the art for having an acrylic layer of some sort disposed thereon such that the flooring is pre-finished. Applicants' respectfully urge the

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Examiner to look at the invention a whole, in accordance with the rules, and not part by part. If looked at as a whole, the Examiner's argument is not strong enough to find the obviousness standard met under Rule 103 (a).

Claim Rejections(Combination of References)- 35 USC § 103(a)

The Examiner rejected claims 28,29,42 and 43 under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,600,336 to WALLER, Jr. in view of US Patent #5,822,944 to PENLAND, Sr.

Specifically, the Examiner states regarding claims 28 and 42, WALLER, Jr. discloses the basic claimed system except for the inclusion of a tongue and groove along the edges. Examiner further states that PENLAND, Sr. teaches that a bottom layer (26) is known in the art to have a tongue (32) and a groove (34). Therefore, it would have been "obvious to one having ordinary skill in the art to provide the system of WALLER, Jr. with the tongue and grooves of PENLAND, Sr. in order to more securely interconnect adjacent flooring systems.

However, PENLAND, Sr. only teaches selected boards from the first and second layer are longitudinally offset to create end locking tabs and corresponding end locking slots. WALLER, Jr. only teaches that the upper layer and intermediate layers have at least one plank being laterally offset to provide a male extension at only one edge and a female recess only at the other edge. The bottom layer in WALLER, Jr. does not contain offset planks. The above mentioned references, alone or combined, do not teach the applicants' tongue and groove technique being only in the bottom layer of the flooring system to provide flexibility.

Applicants' respectfully argue that there is no motivation to combine the two above mentioned references. Both the above

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mentioned references do not share the same objectives of the Applicants' invention which is to be flexible and in contrast teach away from flexibility. Therefore a person having ordinary skill in the art would not look to both of these references when creating their invention.

In addition, Applicants maintain that the combination of WALLER, Jr. and PENLAND, Sr. cannot render Applicants' claimed invention obvious because the top, intermediate and bottom layer of the wooden mat in WALLER, Jr. all have gaps, and there is no motivation in the references to provide only the bottom layer of PENLAND, Sr. with gaps.

Not Given Considerable Weight

Examiner regarding Applicants' claims 34 and 35 states, "the method of forming the strip is germane to the issue of patentability of the flexible flooring member itself. Thus, the steps of rough cutting and machining have not been given considerable weight. Applicants' do not necessarily agree with the Examiner but do not argue these claims.

Conclusion

Applicants respectfully maintain that the rejections and/or objections stated in the December 6, 2005 Office Action have been fully addressed. Therefore, this Application is in full compliance with all requirements. Accordingly, Applicants respectfully urge the Examiner to withdraw all rejections and/or objections stated in the Non-final Office action and place this Application in condition for allowance.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

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No fee is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is given to charge the amount of any such fee to Deposit Account No. 50-1891.

I hereby certify that this paper is being facsimile transmitted to:
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on the date shown below.
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